

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons which follow.

The Examiner objects to the disclosure under 37 CFR § 1.163(a) and rejects the claim under 35 U.S.C. 112, first and second paragraphs, as being unsupported by a clear and complete botanical description which distinguishes the cultivar from related known varieties. Favorable reconsideration and allowance of the application is requested in view of the foregoing amendments and the remarks which follow.

In order to expedite the Examiner's review of this response, applicant will address each of the Examiner's objections in the order they were discussed in the Official Action.

- A. The specification has been amended at page 3, line 6, to correct the recitation "begin" and replace it with –beginning--.
- B. The specification has been amended at page 4, line 17, to insert corolla depth.
- C. The specification has been amended at page 6, line 19, to replace the recitation "inflorescence" with –inflorescences--.

Requirement for Information Under 37 CFR 1.105

Applicant confirms in good faith that the instant plant was not sold or publicly available anywhere in the world more than one year prior to the U.S. filing date of November 19, 2003. Filed herewith is a PTO Form 1449 disclosing Canadian Plant Breeder's Rights application no. 02-3405 filed December 23, 2002, as drawn to 'FIP 469'. The original certified copy was filed with a Claim for Convention Priority under 35 U.S.C. § 119 on February 19, 2004. Also disclosed in the attached PTO Form 1449 is a copy of the German application PEL 1650 drawn to 'FIP 469' filed June 26, 2000, as well as a copy of the published denomination, and published grant.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should an improper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date: March 25, 2004

FOLEY & LARDNER LLP
Customer Number: 22428

22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5483

Facsimile: (202) 672-5399

By Richard C. Peet

Richard C. Peet
Attorney for Applicant
Registration No. 35,792